

1 COMMONWEALTH OF :  
2 PENNSYLVANIA :  
3 v. : PRELIMINARY HEARING  
4 GREGORY YARBENET :  
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Preliminary Hearing in the above-captioned  
matter held on Wednesday, May 29, 2002, commencing  
at 1:00 p.m., before District Justice Christopher  
MacKendrick, 6880 Route 215, P.O. Box 53, East  
Springfield, PA 16411.

For the Commonwealth:

Damon C. Hopkins, Esquire  
Office of the District Attorney  
Erie County Courthouse  
Erie, PA 16501

For the Defendant:

Philip B. Friedman, Esquire  
Ambrose Friedman & Weichler  
319 West 8th Street  
Erie, PA 16502

Reported by Janis L. Ferguson, RPR  
Ferguson & Holdnack Reporting

100a

1 THE COURT: We're here for the preliminary hearing  
2 on Mr. Yarbenet. Attorneys, do you wish the  
3 reading of the Complaint?

4 MR. FRIEDMAN: We do not, Your Honor. We'll waive  
5 a reading and enter a plea of not guilty.

6 THE COURT: Okay. Commonwealth?

7 MR. HOPKINS: Your Honor, we're ready to proceed.  
8 We would call Stacy S [REDACTED]. She's outside the  
9 door.

10  
11 S T A C Y A. S [REDACTED], first having  
12 been duly sworn, testified as follows:

13  
14 DIRECT EXAMINATION  
15 BY MR. HOPKINS:

16 Q. Would you tell us your full name.

17 A. Stacy Ann S [REDACTED].

18 Q. How old are you, Stacy?

19 A. I'm 16.

20 Q. When is your birthday?

21 A. June 2nd.

22 Q. What year?

23 A. '85.

24 Q. What grade are you in now?

25 A. I'm in tenth grade.

100.1a

1 Q. Where do you go to school?

2 A. The Collegiate Academy.

3 Q. How long have you been there?

4 A. I've been there for just this school year.

5 Q. Where did you go to school before that?

6 A. Girard High School.

7 Q. How long were you there?

8 A. For a full year.

9 Q. Full year?

10 A. Um-hum.

11 Q. And then after your freshman year, you transferred  
12 to the Collegiate Academy?

13 A. Right.

14 Q. How about before that? Where did you go to  
15 school?

16 A. Before that, I went to Rice Avenue Middle School.

17 Q. For what grades? What grades were you there?

18 A. Fifth, sixth, seventh, and eighth.

19 Q. While you were at Rice Avenue Middle School, did  
20 you ever have a teacher, Mr. Yarbenet?

21 A. Yes.

22 Q. When did you have him?

23 A. I had him for science in sixth grade, and I was  
24 transferred to his homeroom in seventh and eighth grade.

25 Q. How about fifth grade?

100.2a

1 A. I didn't have any contact with him.  
2 Q. Did you know him at all then?  
3 A. No.  
4 Q. Do you know his first name?  
5 A. Greg.  
6 Q. Do you see him in the courtroom?  
7 A. Yeah.  
8 Q. Where is he sitting?  
9 A. Right over there.  
10 Q. Can you point to him.  
11 A. (Witness indicates.)  
12 Q. Do you know what he's wearing?  
13 A. Tie, something blue.  
14 MR. HOPKINS: Your Honor, would the record reflect  
15 she's identified the Defendant?  
16 THE COURT: Okay.  
17 Q. You said you had Mr. Yarbenet in sixth grade.  
18 A. Yes.  
19 Q. What was that for?  
20 A. That was for science.  
21 Q. How often did you have to meet for your science  
22 class?  
23 A. Once a day.  
24 Q. What period?  
25 A. Eighth.

100.3a

1 are both for gifted children who excel, and they are also  
2 for children who have some problems, right?

3 A. Yes.

4 Q. Which way were you?

5 A. Gifted.

6 Q. And you said Mr. Yarbenet came in.

7 A. Yes.

8 Q. This would have been at the beginning of the  
9 school year?

10 A. Near the beginning.

11 Q. Do you know when you began school that year?

12 A. I don't know.

13 Q. August? September?

14 A. In that general time.

15 Q. Somewhere in the first couple of months?

16 A. Um-hum. Yes.

17 Q. Is that right? And those first couple of months,  
18 you had the IEP. When he came in, what happened?

19 A. He suggested that I should be transferred to his  
20 homeroom to work in the TV studio, because he thought it  
21 would be something I would enjoy. And he said he thought it  
22 would help me make more friends and become more accepted.

23 Q. I know you're nervous. Okay?

24 A. Yes.

25 Q. And you're doing a great job. But can you slow

100.4a

1 A. Yes.

2 Q. What happened after that?

3 A. In January, those things were still going on. We  
4 would still go see him. He was giving me cards and notes,  
5 as he had been for some time. I don't recall when that  
6 started. January wasn't too bad.

7 On February 4th, we took a field trip to Channel  
8 12 News. The TV studio.

9 Q. WICU?

10 A. Yes.

11 Q. And where is that located, do you know?

12 A. On State Street. I know Erie.

13 Q. So you guys went there?

14 A. Yes.

15 Q. Everybody from the TV studio project?

16 A. Yes.

17 Q. And Mr. Yarbenet?

18 A. Yes.

19 Q. Any other adults?

20 A. No.

21 Q. How long were you at the studio for?

22 A. Maybe just under an hour. I don't know exactly.

23 Q. Okay. What happened when you left the studio?

24 A. After we left, we went to have dinner at Arby's.

25 And he had me sit with him alone, while the other kids went

*101a*

1 and sat and socialized.

2 Q. You couldn't go sit with them?

3 A. No.

4 Q. Did he tell you why?

5 A. He said he wanted to talk to me.

6 Q. What did you talk about?

7 A. Nothing. Nothing important.

8 Q. How did you get home?

9 A. He was driving us all home.

10 Q. How many kids were there total, do you know?

11 A. There were six, I believe.

12 Q. And what kind of car were you in?

13 A. A white Dynasty.

14 Q. How did all six of you fit in there?

15 A. There were four girls in the back, he was driving,  
16 one of the boys was in the front, and I was in the middle in  
17 the front. This whole time he had been holding my hand and  
18 rubbing my thighs.

19 Q. Where was that?

20 A. In the car.

21 Q. Did anybody see that?

22 A. Yes. They didn't know what to do about it, so  
23 nobody said anything.

24 Q. Did you ever talk to them about it?

25 A. No.

102a

1 Q. Do you know who the kids were that were in the car  
2 with him?

3 A. One was P [REDACTED] K [REDACTED], one was J [REDACTED] S [REDACTED]  
4 (phonetic).

5 Q. S [REDACTED]?

6 A. S [REDACTED]. I don't know how to say it. J [REDACTED]  
7 Z [REDACTED], K [REDACTED] M [REDACTED], and -- is that six? I don't know  
8 who all was in the back.

9 Q. I wasn't counting.

10 A. Okay.

11 Q. How do you know they saw this?

12 A. Because they asked for a hand check, which is what  
13 they did at their church camps when they would get on the  
14 bus. And that meant everybody on the bus had to put their  
15 hands in the air, so that nobody was holding hands.

16 Q. So that's sort of -- it was a thing that --

17 A. They were trying to stop it.

18 Q. -- you do in seventh grade to make sure that  
19 nobody is playing fun with their hands with their boyfriend  
20 or girlfriend or whoever else.

21 A. Right.

22 Q. So they did that how many times?

23 A. Just once.

24 Q. Just once. And that's why you think they saw what  
25 was going on?

103a



1 A. Yes.

2 Q. But you never talked to them about it.

3 A. No.

4 Q. Who was dropped off last?

5 A. I was.

6 Q. Everybody else was dropped off before you.

7 A. Yes.

8 Q. What happened after everybody else was dropped  
9 off?

10 A. Once the last girl was dropped off, he stopped at  
11 a stop sign on Ethel and Daggett, and he leaned over and  
12 asked me if he could steal a kiss.

13 Q. Steal a kiss.

14 A. That's what he said. "May I please steal a kiss."

15 Q. What did you say?

16 A. I didn't say anything.

17 Q. What happened then?

18 A. He pulled me into him and began to kiss me.

19 Q. Kiss you how? Kissed you on the cheek?

20 A. No. On the lips.

21 Q. On the lips. The kind of kiss you give your mom  
22 at the end of the night?

23 A. No.

24 Q. No. What kind of kiss was it, then?

25 A. Deep, with tongue, and he was feeling up and down

109a

1 my back and sides towards my breasts.

2 Q. Did he actually touch your breasts?

3 A. Yes. Above clothing and coat.

4 Q. So over your clothing and your coat.

5 A. Yes.

6 Q. Did you kiss him back?

7 A. No.

8 Q. Did you do anything with your hands?

9 A. No.

10 Q. Did you try and stop him?

11 A. No.

12 Q. Did you say anything to him?

13 A. No.

14 Q. How old were you on February 4th of 1999?

15 A. I was 13. I'm having a hard time with numbers  
16 today. I'm really, really nervous.

17 Q. When is your birthday?

18 A. June 2nd, 1985.

19 Q. 6/2/85.

20 A. Yes.

21 Q. So in 1998, you would have been 13.

22 A. Yes.

23 Q. So 1999, February --

24 A. I was still 13 at the time.

25 Q. So you were still 13.

105a

1 A. Yes.

2 Q. What else happened? Anything?

3 A. He -- once he began driving again, he told me how  
4 it affected him and how much he loved me, how it sent him  
5 soaring, I believe. And he said that's why he never became  
6 an astronaut, because he didn't have to go into space to  
7 actually get the feeling. He could do that just from  
8 kissing me.

9 Q. And that's the first time he ever kissed you?

10 A. Yes.

11 Q. And he told you all of that afterwards?

12 A. Yes.

13 Q. We're still talking about Mr. Yarbenet?

14 A. Yes.

15 Q. Sitting over there (indicating).

16 A. Yes. And then he stopped again on the way to my  
17 house.

18 Q. Where did he stop that time?

19 A. At a mailbox near Shady Lane.

20 Q. Did he tell you why he was stopping there?

21 A. No.

22 Q. Did he tell you he was going to stop?

23 A. No.

24 Q. What happened when he stopped?

25 A. He began, again, the same thing as before.

10ba

1 Q. Kissing you again?

2 A. Yes.

3 Q. Did you kiss him back?

4 A. Yes.

5 Q. Did you like the attention you were getting from  
6 him?

7 A. Extremely. My father was rather -- he didn't give  
8 me much attention at all. I had the hardest time even  
9 getting him to say hi to me, and I was really reveling in  
10 this.

11 Q. Did you think there was anything wrong with this?

12 A. I knew there was something wrong with this.

13 Q. But you liked the attention.

14 A. Yes.

15 Q. What started happening after this?

16 A. After this, the next day at school and for the  
17 rest of the time I spent at Rice Avenue, he would dismiss  
18 the other people in the TV studio, keep me behind, and he  
19 would do the same sorts of things and some more in the TV  
20 studio when he would lock the door when they left.

21 Q. Let me stop you. When is the first time you  
22 remember something happening in the TV studio?

23 A. The day after the field trip.

24 Q. So it would have been February 5th.

25 A. Yes.

107a

1 Q. Maybe from this table, cut the Judge in half, and  
2 we'd have it?

3 A. Yes.

4 MR. HOPKINS: Sorry, Your Honor.

5 Q. That's about right?

6 A. Yes.

7 Q. What is in there?

8 A. There are three tables, a shelf, recording  
9 equipment, video cameras. There's a backdrop behind one of  
10 the tables for people to sit at and be recorded.

11 Q. Pretty crowded in there?

12 A. Reasonably crowded.

13 Q. How much free space is there?

14 A. Three or four square feet.

15 Q. And --

16 A. Plus behind the tables.

17 Q. But behind the tables is where people would sit?

18 A. Right.

19 Q. So when you went into the TV studio with  
20 Mr. Yarbenet, where was it that he was kissing you on the  
21 face?

22 A. Up against the door or the wall that connects with  
23 the door.

24 Q. Is there a lock on the door?

25 A. Yes.

107.1a

1 mornings. That's where you would have your homeroom.

2 A. Yes.

3 Q. You guys did the announcements and stuff from  
4 there?

5 A. Yes.

6 Q. And that's what all the other kids in the school  
7 would be listening to?

8 A. Yes.

9 Q. And then he would let them go.

10 A. Um-hum.

11 Q. So you were already in the TV studio. You didn't  
12 have to leave.

13 A. Yes.

14 Q. Did things ever happen during that semester  
15 anywhere other than the TV studio?

16 A. Yes.

17 Q. Where?

18 A. In his room, in the closet behind his room, which  
19 is adjacent to another room. And I think that's all.

20 Q. Okay, let me make sure we get this straight. In  
21 his room, which would be his classroom.

22 A. 209.

23 Q. Where -- you said there's a closet in there?

24 A. Yes.

25 Q. What is the closet for?

107.2a

1 Q. During the first semester -- I'm sorry, the last  
2 semester of seventh grade, in that time, up until summer,  
3 did he ever force you to touch him anywhere else?

4 A. I can't remember which year it was. I think so.  
5 I believe it was seventh grade.

6 Q. You think it was seventh grade?

7 A. (Witness nods head.)

8 Q. Are you sure?

9 A. Yes.

10 Q. Where did he have you touch him during that  
11 semester?

12 A. His stomach and his private area.

13 Q. You touched his private area?

14 A. Above clothing.

15 Q. Meaning what?

16 A. Meaning below the waist.

17 Q. Front or back?

18 A. Front.

19 Q. But only above the clothing.

20 A. Yes.

21 Q. And that was while he was kissing you.

22 A. Yes.

23 Q. And you were kissing him back.

24 A. Yes.

25 Q. Was there anything else in that semester -- you

107.3a

1 said this was happening just about every day in one of those  
2 locations. Did it ever happen more than once a day?

3 A. Yes.

4 Q. How often would it happen more than once a day?

5 A. Perhaps three times a week. Two or three.

6 Q. How would you get -- I mean, I understand that --

7 A. In the morning, he would write a pass for me when  
8 I was in homeroom and give it to me so that I could give it  
9 to my student council teacher and get out of that class.

10 Q. What period was student council?

11 A. Third.

12 Q. Third period.

13 A. Yes.

14 Q. That was what teacher?

15 A. Mrs. Turton.

16 Q. Mrs. Turton?

17 A. Yes.

18 Q. So you'd take a pass to Mrs. Turton. And how was  
19 it -- well, what was the reason?

20 A. So that she would know I wasn't skipping.

21 Q. No. I mean, what was the reason that you gave  
22 her --

23 A. I gave her a pass.

24 Q. But what reason did you give her that you had to  
25 go back to be with Mr. Yarbenet?

107.4a



1 A. Yes.

2 Q. Was he in any special type of medical equipment?  
3 Was he in a wheelchair?

4 A. He had a back brace, yes.

5 Q. He had a back brace. So he would go with you over  
6 to the school, and your mom would take him home.

7 A. Yes.

8 Q. I take it he couldn't drive in the back brace?

9 A. He could.

10 Q. He could.

11 A. He didn't like to drive to school. He was very in  
12 to fitness, and he walked almost every day.

13 Q. So when you saw him after school, where would you  
14 see him?

15 A. I would see him out of school between the middle  
16 school and the elementary school. I would see him in the  
17 car at the elementary school. And often he would come to  
18 our house as well.

19 Q. When he came to your house, was your mom there  
20 with you?

21 A. Often.

22 Q. Always?

23 A. Nearly always, except for a couple occasions.

24 Q. Did anything ever happen between you and him at  
25 your house?

107.5a

1 A. Yes.

2 Q. What?

3 A. When my mom would go out to get my sister off the  
4 bus, he would lean over and kiss me.

5 Q. What kind of a kiss?

6 A. Usually just sort of light, because there wasn't  
7 much time before she would come back in.

8 Q. So he came over and visited all the time.

9 A. Yes.

10 Q. With your mom.

11 A. Yes.

12 Q. And you.

13 A. Yes.

14 Q. So how about the summer after seventh grade?

15 A. He visited often, and we would go meet him at an  
16 access to Elk Creek a lot.

17 Q. What do you mean? What is the access at Elk  
18 Creek?

19 A. There are a couple places, like at the Legion  
20 Park. And, I don't know, there's another access. I don't  
21 know what it is. And we would go meet him at those places.

22 Q. You and your mom?

23 A. Yes. And my sister.

24 Q. Was there ever a time during the summer between  
25 seventh and eighth grade that you would have had any type of

107.6a

1 contact with him like you were having in the TV studio?

2 A. No.

3 Q. Just kisses when he would visit?

4 A. Yes.

5 Q. That was it?

6 A. Yes.

7 Q. You guys never were alone enough to do anything  
8 else?

9 A. Right.

10 Q. How about when you started eighth grade?

11 A. When I started eighth grade, it began again.

12 Q. The things with the TV studio?

13 A. Yes.

14 Q. Whose homeroom were you in, in eighth grade?

15 A. I was still in Mr. Yarbenet's homeroom.

16 Q. So you were still part of the TV studio.

17 A. Yes.

18 Q. And up to this point, you hadn't told anybody what  
19 was going on with you two.

20 A. Right.

21 Q. Why not?

22 A. Because I was afraid it would make him angry.

23 Whenever he thought I told somebody, he would be very harsh  
24 with me and, you know, just reassured me how much he loved  
25 me, and that if I ever told, nobody would understand.

107.7a

1 Q. Did you ever tell him you loved him?

2 A. Yes.

3 Q. Did you still like the attention?

4 A. Yes.

5 Q. When you started eighth grade, you were still in  
6 his homeroom. Did things start up with the TV studio again?

7 A. Yes.

8 Q. And what do you mean? What kind of things started  
9 up with the TV studio?

10 A. The same sorts of things. Kissing, touching above  
11 and below clothes.

12 Q. Now, you would have started school in August or  
13 September --

14 A. Yes.

15 Q. -- of that year, right? And we're still in 1999?

16 A. Right.

17 Q. When is your birthday?

18 A. June 2nd.

19 Q. So now you're 14?

20 A. Yes.

21 Q. And how often? How often would you go to the TV  
22 studio?

23 A. Again, almost every day.

24 Q. Same type of thing that was going on in the  
25 studio?

108a

1 A. Yes.

2 Q. Was there any differences?

3 A. It was more intense.

4 Q. What do you mean?

5 A. He was enjoying it a lot more and wasn't as  
6 careful about what he did.

7 Q. I don't understand. You need to tell me what you  
8 mean.

9 A. He was less gentle and enjoying himself a lot  
10 more. And --

11 Q. Do you mean touching you?

12 A. Yes.

13 Q. Where was he touching you now?

14 A. Same areas. Above and below clothing, with his  
15 mouth.

16 Q. Did you ever take your clothing off?

17 A. No.

18 Q. With his mouth?

19 A. Yes.

20 Q. And that was new from the spring, then.

21 A. I believe.

22 Q. And he would kiss you where with his mouth?

23 A. All over my chest and stomach, arms, ears, neck.

24 Q. What were you doing when he would do that?

25 A. Just standing, waiting for it to be over.

108.1a

1 Q. You didn't like the attention anymore?

2 A. I liked the attention, but not that sort. During  
3 the day he would give me gifts and cards and all sorts of  
4 attention.

5 Q. So you liked that attention.

6 A. Yes.

7 Q. But not so much the physical stuff.

8 A. Right.

9 Q. But did you still kiss him back?

10 A. Yes. If I didn't, he was angry.

11 Q. He was angry.

12 A. Yes.

13 Q. Did you guys ever have any more discussions about  
14 his suicide --

15 A. It came to the attention of some of the school  
16 administrators. The principal and one of the guidance  
17 counselors.

18 Q. When was that?

19 A. I don't know when that was. But they asked him  
20 about it, and he told everybody an incredibly fabricated  
21 tale of how I saved his life.

22 Q. How you saved his life?

23 A. Yes.

24 Q. What was the tale of how you saved his life?

25 A. I'm not sure just what he told them, because I

108.2a

1 grade?

2 A. Several times he bit me. And people bite, and  
3 that's fine, but not with the intention of drawing blood  
4 like he had.

5 Q. Where did he bite you?

6 A. Lips and tongue.

7 Q. Did he draw blood?

8 A. No.

9 Q. He bit you on your lips and your tongue while you  
10 were kissing him?

11 A. Yes.

12 Q. And am I correct, you were still kissing him back?

13 A. Yes.

14 Q. Throughout all of this.

15 A. Yes.

16 Q. Were you still touching him?

17 A. Yes.

18 Q. Where?

19 A. In the same areas.

20 Q. Still above the clothing?

21 A. For some of the year. I'm not sure when it  
22 started below that.

23 Q. You're not sure whether it was in the first  
24 semester?

25 A. Right. I don't know.

109a

1 Q. Well, what happened that started below that?

2 Below the clothing, I take it.

3 A. Yes.

4 Q. How did it happen that you were touching him below  
5 the clothing?

6 A. He would have me unzip his jeans or pants and put  
7 my hands in. And some days he would just take my hand and  
8 put it in underneath his jeans and underwear from the top.

9 Q. What did your hand touch?

10 A. His penis.

11 Q. Do you know whether it was erect or not?

12 A. Yes. It often was.

13 Q. It often was. Was it always?

14 A. No.

15 Q. Did anything ever happen further with that --

16 A. Yes.

17 Q. -- as far as you touching? What?

18 A. At the end of my eighth grade year, he asked me  
19 twice to perform oral sex on him.

20 Q. We'll come back to that. Still with you touching  
21 him, did anything else happen?

22 A. No.

23 Q. Do you know what ejaculate means?

24 A. Yes.

25 Q. Did he ever ejaculate?

110a



1 A. Sometimes.

2 Q. By touching him, were you just rubbing him?

3 A. Yes.

4 Q. Were you holding on to his penis at all?

5 A. Yes.

6 Q. You said sometimes he ejaculated.

7 A. Yes.

8 Q. But you don't know if this started in the first  
9 semester --

10 A. I don't know when it started.

11 Q. -- before Christmas or the second semester after  
12 Christmas. What about Christmas break?

13 A. I don't really recall Christmas break in eighth  
14 grade.

15 Q. You don't recall anything happening. Do you know  
16 if you saw him?

17 A. There was hardly ever a time when he wasn't there,  
18 so I'm assuming I saw him. I don't remember specifically  
19 right now.

20 Q. So after Christmas break, we would be in the year  
21 2000.

22 A. Yes.

23 Q. January 2000.

24 A. Yes.

25 Q. You went back to school?

11/1a

1 A. Yes.

2 Q. You were still in his homeroom?

3 A. Right.

4 Q. What would happen then?

5 A. It would continue the way it had before Christmas.

6 Q. The only difference, you say, is at some point  
7 during the eighth grade year, whether it be the first  
8 semester or second semester, you started touching him on  
9 his --

10 A. Yes.

11 Q. -- his privates underneath his clothes.

12 A. Yes.

13 Q. Was there any other differences throughout that  
14 semester?

15 A. The second?

16 Q. Yes.

17 A. At the end of the year.

18 Q. At the end of the year. How about throughout the  
19 second semester?

20 A. No major changes.

21 Q. No major changes. What do you mean by "major  
22 changes"? That means there are minor changes, right?

23 A. Not necessarily. There's nothing very special or  
24 anything I can point out.

25 Q. How many times was it happening a week?

112a

1 A. At least five.

2 Q. You're pretty sure --

3 A. Sometimes twice a day.

4 Q. You're pretty sure it happened once a day?

5 A. Yes.

6 Q. Was there ever a day that you were sick?

7 A. Yes.

8 Q. Which grade?

9 A. Seventh and eighth on occasion. He would call me  
10 at home and send me -- he would have cards for me the next  
11 day.

12 Q. And these things wouldn't happen while you were at  
13 home sick, right?

14 A. Yes.

15 Q. They did happen while you were at home sick?

16 A. No.

17 Q. The touching.

18 A. No.

19 Q. So there were days that it didn't happen.

20 A. Yes.

21 Q. In the spring of 2000, your second semester of  
22 eighth grade, was there anything more that was happening on  
23 a daily basis, or less, or anything else?

24 A. No.

25 Q. You said something happened at the end of the

113a

1 year.

2 A. Yes.

3 Q. Do you know exactly what days that happened?

4 A. June 1st and maybe a week after that.

5 Q. Are you sure about the dates?

6 A. I'm really pretty sure, because we were painting  
7 for a semiformal, and it was the day before my birthday.

8 Q. Your birthday is June 2nd.

9 A. Yes.

10 Q. What were you painting for?

11 A. There was a semiformal coming up to celebrate the  
12 end of our eighth grade year, and I was helping paint the  
13 decorations for it.

14 Q. How did you end up anywhere near Mr. Yarbenet?

15 A. He decided he would help also.

16 Q. Was this during school or after school?

17 A. Both.

18 Q. That you were painting?

19 A. Yes.

20 Q. And did you end up alone with him sometime that  
21 day, June 1st?

22 A. Yes.

23 Q. When was that?

24 A. It was after school.

25 Q. Where were you?

114a

1 A. In the TV studio.

2 Q. How did you end up at the TV studio?

3 A. He said he had to talk to me about something, took  
4 me up there. Nobody else was around to complain.

5 Q. Did you know what was going to --

6 A. No.

7 Q. Did you know you were going up there and you were  
8 going to end up kissing him and touching him and so forth?

9 A. Yes.

10 Q. You still went?

11 A. I still went.

12 Q. And up to this point you hadn't told anybody what  
13 was going on.

14 A. Right.

15 Q. So you got into the TV studio that day, June 1st.  
16 What happened?

17 A. We were kissing, touching for a while, and then he  
18 put his hands on my shoulders, pushed me downward, and asked  
19 me if I knew what he would really like. And he said, I  
20 would really enjoy it if you would, you know.

21 Q. "You know".

22 A. Yes.

23 Q. Those were his words.

24 A. Yes.

25 Q. And when he pushed your shoulders down, where was

115a

1 your head?

2 A. At his waist level.

3 Q. And what was there?

4 A. At that point he took his penis out.

5 Q. Were his pants unzipped or unbuttoned before that?

6 A. Yes.

7 Q. They were. Had you touched his penis that day?

8 A. Yes.

9 Q. And did anything else happen then?

10 A. He then put it in my mouth.

11 Q. Put his penis in your mouth?

12 A. Yes.

13 Q. Was it erect?

14 A. Yes.

15 Q. How long did you have his penis in your mouth?

16 A. For a minute or so.

17 Q. Did anything happen?

18 A. No.

19 Q. How did it stop?

20 A. I couldn't take it. I got up and left.

21 Q. Did you say anything to him?

22 A. No.

23 Q. Where did you go to?

24 A. I went to the basement where I had been painting.

25 Q. Did you see him again that day?

116a

1 A. Yes. He came down several minutes later.

2 Q. And what happened then?

3 A. He was very flushed and telling me how much he  
4 appreciated what I had done.

5 Q. Okay.

6 A. And then we were painting.

7 Q. Did you say anything to him?

8 A. No.

9 Q. Did you tell him you didn't want to do it?

10 A. No.

11 Q. Did you say anything to him in the TV studio about  
12 it?

13 A. No. He had so much authority, I was afraid of  
14 saying anything.

15 Q. You said it happened again?

16 A. Yes.

17 Q. You said there were two times. When was the next  
18 time?

19 A. I'm not sure what date it was. It was near a week  
20 later. After school again.

21 Q. Okay. Are you sure it was a week later?

22 A. Not exactly. I don't recall.

23 Q. Okay. But you know it was sometime close in time  
24 afterwards.

25 A. Yes.

117a

1 Q. Okay. What happened that time?

2 A. The exact same thing.

3 Q. Well, you weren't painting for the formal dance,  
4 were you -- or semiformal?

5 A. I think I was.

6 Q. When was the semiformal dance?

7 A. I don't know what day it was.

8 Q. So you think you were still painting for the  
9 dance.

10 A. I think so.

11 Q. And how did you end up in the TV studio?

12 A. Again, we just went up there. He said we'd be  
13 down in a few minutes, but I had to fix something up there.

14 Q. When you got to the TV studio, what happened?

15 A. He asked me to do the same thing I did before,  
16 still using just the term "you know".

17 Q. Right away he asked you to do that? There was no  
18 kissing and touching?

19 A. No, after kissing and touching.

20 Q. So you're kissing and touching. Were his pants  
21 ever unbuttoned or unzipped before?

22 A. Yes.

23 Q. Did you touch his penis that time?

24 A. Yes.

25 Q. And he did what then? What happened then?

118a



1 A. He began to push me down again and said, you know,  
2 I would really like it if you would do that again.

3 Q. Did you tell him no, I didn't like it the first  
4 time?

5 A. No.

6 Q. Did you say anything to him?

7 A. No.

8 Q. Did you do it?

9 A. Yes.

10 Q. And what was that?

11 A. Another -- just oral sex for a minute. And I had  
12 it, you know. My stomach was just upset, and I had to  
13 leave.

14 Q. His penis was in your mouth?

15 A. Yes.

16 Q. Did he ejaculate?

17 A. No.

18 Q. Did he ejaculate the first time?

19 A. No.

20 Q. How did you stop it this time?

21 A. Again, I just got up and I walked out.

22 Q. You didn't kiss him good-bye or say anything --

23 A. No.

24 Q. -- you just left.

25 A. Yes.

119a

1 Q. Where did you go?

2 A. I went downstairs somewhere. Maybe back to his  
3 room. I know my mother and sister showed up shortly after  
4 that. They were in the hall coming to get me that day.

5 Q. Did you go home with them?

6 A. Yes.

7 Q. In eighth grade, did you still walk with him to  
8 get your mom?

9 A. Yes.

10 Q. Did that happen or continue to happen even after  
11 he took his back brace off?

12 A. Yes. Because they were friends and just wanted  
13 some time after school to talk.

14 Q. You said he gave you notes and cards and gifts and  
15 things.

16 A. Yes.

17 Q. And that was all through seventh and eighth grade?

18 A. Yes. And ninth.

19 Q. How about the summer after the eighth grade?

20 A. Over the summer, we still saw him some, but I  
21 didn't see him as much.

22 Q. You didn't see him as much?

23 A. No.

24 Q. Was there ever a time during the summer of that  
25 year that you guys did anything more?

120a

COPY

1

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS  
VS : OF ERIE COUNTY, PENNSYLVANIA  
GREGORY YARBENET : CRIMINAL DIVISION  
: No. 1434 OF 2002

PLEA

Proceedings held before the Honorable Ernest  
J. DiSantis, in Courtroom H, Erie County  
Courthouse, Erie, Pennsylvania, on Tuesday,  
March 4, 2003.

**APPEARANCES:**

James Vogel, Assistant District Attorney, and Damon Hopkins,  
Assistant District Attorney, appearing on behalf of the  
Commonwealth.

Phillip Friedman, Esquire, appearing on behalf of the  
Defendant.

Monica J. Sawka, RPR -- Official Court Reporter

CLERK OF RECORDS  
2003 JUN 30 PM 4:00  
CRIMINAL DIVISION  
COUNTY COURTHOUSE  
ERIE, PA 16501

121a

1 P-R-O-C-E-E-D-I-N-G-S

2

3 THE TIPSTAFF: May I have your attention,  
4 please. When I call your name, if you'd please acknowledge  
5 your presence for the court reporter by answering here.

6 Jason Barnes.

7

THE DEFENDANT: Here.

8

MR. VOGEL: Gregory Scott Wright.

9

THE DEFENDANT: Here.

10

MR. VOGEL: John Hines.

11

THE DEFENDANT: Here.

12

MR. VOGEL: Thomas Barry.

13

THE DEFENDANT: Here.

14

MR. VOGEL: Justin Caldwell.

15

THE DEFENDANT: Here.

16

MR. VOGEL: Patrick Ecces.

17

THE DEFENDANT: Yes.

18

MR. VOGEL: I beg your pardon. John

19

Kerr.

20

THE DEFENDANT: Right here.

21

MR. VOGEL: John McShane.

22

THE DEFENDANT: Here.

23

MR. VOGEL: Anita Nicholson.

24

THE DEFENDANT: Here.

25

MR. VOGEL: David Ostread.

122a

1 THE DEFENDANT: Here.

2 MR. VOGEL: Thomas Pizarczyk.

3 THE DEFENDANT: Here.

4 MR. VOGEL: Henry Proctor.

5 THE DEFENDANT: Here.

6 MR. VOGEL: Joseph Seelinger.

7 THE DEFENDANT: Here.

8 MR. VOGEL: Michael Lee Thomas.

9 THE DEFENDANT: Here.

10 MR. VOGEL: Gregory Yarbenet.

11 THE DEFENDANT: Here.

12 MR. VOGEL: Justin Prescott.

13 THE DEFENDANT: Right here.

14 MR. VOGEL: Gerrick Moore.

15 THE DEFENDANT: Here.

16 THE TIPSTAFF: Would you all stand and  
17 raise your right hands, please?

18

19 (Defendants sworn en masse.)

20

21 MR. VOGEL: Gentlemen, if I could have  
22 your attention, please, for the next several minutes, my  
23 name is Jim Vogel. I'm from the DA's office and I'm going  
24 to be handling some of the proceedings here in Judge  
25 DiSantis' Courtroom this afternoon along with Attorney Damon

123a

1 Hopkins from our office and Attorney Doug Wright from the  
2 Attorney General's Office. As you can see, we have a large  
3 number of you scheduled here for court this afternoon. You  
4 are all here scheduled to enter pleas. What I'm going to do  
5 now is explain to you as a group the rights that you have to  
6 a trial that you would give up if you do in fact enter a  
7 plea here this afternoon.

8           You all have the right to plead not guilty and stand  
9 trial on all of the charges originally filed against you.  
10 You have a right to have that trial be a trial by jury. At  
11 a jury trial you'd be presumed innocent and the burden of  
12 proof would be on the Commonwealth to present evidence and  
13 witnesses to prove your guilt beyond a reasonable doubt.  
14 You would be able to participate in the selection of the  
15 jury which would be made up of twelve citizens from Erie  
16 County. Through your attorney you can cross-examine the  
17 witnesses called against you, you can offer evidence  
18 yourself, if you wish, or you can remain silent if that's  
19 your choice. At the conclusion of a jury trial the jury's  
20 verdict must be unanimous. They must agree twelve to  
21 nothing before they could find you guilty or not guilty, for  
22 that matter, of any charge against you. By entering a plea  
23 here today you forever give up your right to a jury trial  
24 and all of the rights that go along with a jury trial.

25           Now when you're called forward individually please

124a

1 bring with you the forms that explain your trial rights.  
2 We'll ask you at that time in front of the judge if you have  
3 any questions about your trial rights and then we'll go on  
4 to discuss the things that apply to your individual cases.  
5 Those include the maximum sentences that you face, any plea  
6 bargain that may be involved and the legal definition and  
7 factual basis of the charges that you are pleading to.

8 In addition, it is possible that some of you will be  
9 sentenced here today. Now, whether or not a person gets  
10 sentenced is up to the judge. It also depends on the  
11 seriousness of the charges involved and the positions of the  
12 parties. But some of you will be sentenced here today, so  
13 I'm going to explain to you all as a group the  
14 post-sentencing rights that apply after you get sentenced.

15 After you get sentenced in a criminal case you can  
16 file what's called a post-sentencing motion. That can be  
17 any request you want to make of the judge including a  
18 challenge to the voluntariness of your plea, a request for a  
19 change in sentence, or any other relief that you believe is  
20 appropriate. If you decide you want to file a  
21 post-sentencing motion it can be done by either you or your  
22 attorney, but it must be filed in writing with the court  
23 within ten days of your sentencing date or you would forever  
24 lose your right to file a post-sentencing motion.

25 In addition, you also have a right to take an appeal

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1 to a higher court, the Superior Court. If you wish to take  
2 an appeal in your case, there's a form that has to be filed  
3 by either you or your attorney called a notice of appeal.  
4 That form gets filed in the Clerk of Courts Office on the  
5 first floor of this building. If you do not file a  
6 post-sentencing motion but still want to take an appeal, the  
7 notice of appeal must be filed within thirty days from your  
8 sentencing date or you would lose your right to appeal your  
9 case. However, if you do file a post-sentencing motion then  
10 you should not immediately file any notice of appeal because  
11 you need to wait until the judge rules on your  
12 post-sentencing motion first. Once the judge enters an  
13 order on your post-sentencing motion you have thirty days  
14 from the date of that order to file your notice of appeal.

15 You have the right to be represented by an attorney  
16 for any post-sentencing motion or appeal that you may want  
17 to pursue and if you can't afford to hire your own attorney  
18 you can receive free legal services through the Erie County  
19 Public Defender's Office in their outside counsel program  
20 for all of these matters. Once again, for those of you that  
21 the judge does go to immediate sentencing on, we'll ask you  
22 if you have any questions about these rights when you're  
23 called forward individually also. Thank you.

24

25

(Defendant's case called to the bench.)

1260



1 MR. HOPKINS: Your Honor, this is the  
2 time set aside for the plea of Gregory J. Yarbenet at docket  
3 1434 of 2000. Mr. Yarbenet, were you in the courtroom when  
4 Attorney Vogel went over with you the rights that you give  
5 up by entering a plea?

6 THE DEFENDANT: Yes, sir.

7 MR. HOPKINS: Did you understand those  
8 rights at that time?

9 THE DEFENDANT: Yes, sir.

10 MR. HOPKINS: Do you have any questions  
11 you need to ask your attorney, myself or the court about  
12 those rights at this time?

13 THE DEFENDANT: No.

14 MR. HOPKINS: Sir, I need to go over with  
15 you both the possible maximums for the offenses you're going  
16 to plead to as well as the plea agreement, and I also need  
17 to go over with you an addendum to the plea statement.

18 Your Honor, my understanding is this court is taking  
19 the plea and it is scheduled before Judge Bozza for  
20 sentencing.

21 THE COURT: Yes, that's correct.

22 MR. HOPKINS: Judge Bozza has previously  
23 held, as this court has, that Megan's Law assessment would  
24 be unconstitutional, therefore, I'm going to go over with  
25 Mr. Yarbenet the reporting requirements that the Superior

127a

1 Court has upheld as being constitutional.

2 THE COURT: Right, and that's also my  
3 position. Thank you.

4 MR. HOPKINS: Mr. Yarbenet, in front of  
5 me I have what's called an addendum to the guilty plea  
6 statement for sexually violent offenders under Title 42  
7 Pennsylvania Consolidated Statutes 9791. This is a three  
8 page document that has a variety of questions that you and  
9 your attorney have reviewed prior to coming before the  
10 court; is that correct?

11 THE DEFENDANT: Yes.

12 MR. HOPKINS: Do you understand the  
13 reporting requirements that you have to follow following  
14 release from prison for whatever sentence is imposed in this  
15 case?

16 THE DEFENDANT: I do, yes.

17 MR. HOPKINS: You understand that you  
18 will be a lifetime registrant?

19 THE DEFENDANT: Yes.

20 MR. HOPKINS: Based on the charges you're  
21 going to plead to?

22 THE DEFENDANT: I do.

23 MR. HOPKINS: You understand that if you  
24 do not follow through with the reporting requirements that  
25 you are committing a felony of the first degree which will

1200

1 carry with it a maximum parole or maximum term of parole for  
2 the rest of your life if you're convicted of that later on.

3 THE DEFENDANT: Yes, I do.

4 MR. HOPKINS: And you've gone over this  
5 entire document?

6 THE DEFENDANT: Yes, I have.

7 MR. HOPKINS: Are your initials on each  
8 of these pages?

9 THE DEFENDANT: They should be.

10 MR. HOPKINS: Is that your signature?

11 THE DEFENDANT: Yes, it is.

12 MR. HOPKINS: Okay. Mr. Yarbenet at  
13 Count 1 -- well, let me go over the plea agreement first,  
14 okay? My understanding is you've agreed to plead guilty to  
15 Counts 1, 3, 5, 7, 9, 11 and 13. The Commonwealth has  
16 agreed that in exchange we will nolle pros Counts 2, 4, 6,  
17 8, 10, 12, 14, 15, and 16 with the costs of those charges to  
18 be paid by you. Is that your understanding?

19 THE DEFENDANT: Yes.

20 MR. HOPKINS: Count 1 carries a mandatory  
21 minimum five years incarceration with a possible maximum  
22 \$25,000 in fines, twenty years incarceration, \$250 for an  
23 Act 57 fee. Do you understand the possible sentences at  
24 Count 1?

25 THE DEFENDANT: I do.

129a

1 MR. HOPKINS: Do you understand that the  
2 court may give you more than that mandatory minimum, but  
3 that under no circumstances is the court able to give you  
4 less than the mandatory five years?

5 THE DEFENDANT: I understand, yes.

6 MR. HOPKINS: Count 3 carries a possible  
7 maximum of \$5,000.00 in fines, two years incarceration, also  
8 carries the Act 57 fee of \$250. I do believe, however, that  
9 that will only be assessed once per case, so although it's  
10 going to say that after each count, I believe it's only  
11 assessed one time.

12 THE COURT: I think that's correct.

13 MR. HOPKINS: Count 5 is a possible  
14 maximum \$5,000 in fines, two years incarceration. Count 7,  
15 a possible \$5,000 in fines, two years incarceration. Count  
16 9, up to \$10,000 in fine, s five years incarceration. Count  
17 11 up to \$10,000 in fines, five years incarceration and  
18 Count 13 up to \$10,000 in fines, and five years  
19 incarceration. Do you understand the possible maximums at  
20 each of those counts?

21 THE DEFENDANT: Yes, I do.

22 MR. HOPKINS: Do you understand that the  
23 judge could sentence you what's called consecutively,  
24 meaning that each sentence is added to the other one and  
25 cannot be served until you've completed the other one?

1306

1 THE DEFENDANT: I understand that.

2 MR. HOPKINS: So the total possible  
3 maximum of is \$70,000 in fines, forty one years  
4 incarceration.

5 THE DEFENDANT: Yes, I do.

6 MR. HOPKINS: Have you signed that  
7 document?

8 THE DEFENDANT: Yes, I have.

9 MR. HOPKINS: Mr. Yarbenet, what I'm  
10 going to do in just a second is go over with you the legal  
11 and factual basis of the charges. Mr. Yarbenet, as to Count  
12 1 you are charged that between the dates of the month of  
13 February, 1999 through June of 2000 in Erie County  
14 Pennsylvania that you did at Count 1 commit the crime of  
15 involuntary deviate sexual intercourse, a felony of the  
16 first degree. Specifically that on or about June 1st of  
17 2000 you did have a victim, age fourteen, initials SAS  
18 perform oral sex on you occurring at Rice Avenue Middle  
19 School, 1100 Rice Avenue, Girard, Pennsylvania. You commit  
20 the crime of involuntary deviate sexual intercourse, if you  
21 engage in deviate sexual intercourse with another person who  
22 is less than sixteen years of age and that you are four or  
23 more years older than that person and the two of you are not  
24 married. Do you understand the legal and factual basis of  
25 Count 1?

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1 THE DEFENDANT: I do.

2 MR. HOPKINS: How do you plead?

3 THE DEFENDANT: Guilty.

4 MR. HOPKINS: At Count 3 you're charged  
5 with indecent assault, a misdemeanor of the second degree.  
6 That charge is going to repeat for Count 5, Count 7, okay,  
7 so I'm only going to read the legal basis for those charges  
8 once. Is that okay?

9 THE DEFENDANT: Yes, sir.

10 MR. HOPKINS: If you have any questions  
11 you ask me and I'll repeat them.

12 A person commits the crime of indecent assault if  
13 they have indecent contact with another person who is not  
14 their spouse or causes such other person to have indecent  
15 contact with them or when it is done with a victim who is  
16 less than sixteen years of age and you being four or more  
17 years older than that person. Okay. That's the crime of  
18 indecent assault. Do you understand that?

19 THE DEFENDANT: Yes, I do.

20 MR. HOPKINS: At Count 3 it's alleged  
21 that you did have indecent contact with a minor, age  
22 thirteen, initials SAS, at a time that you were age fifty  
23 two and the two of you were not married. This occurred  
24 between the months of February and April of 1999, that you  
25 did fondle and/or kiss the victim's breast and/or buttocks

1300

1 occurring at Rice Avenue Middle School, 1100 Rice Avenue,  
2 thereby committing indecent assault, a misdemeanor of the  
3 second degree. Do you understand the legal and factual  
4 basis at Count 3?

5 THE DEFENDANT: I do.

6 MR. HOPKINS: How do you plead?

7 THE DEFENDANT: Guilty.

8 MR. HOPKINS: At Count 5 that's also  
9 indecent assault. The factual basis is that between the  
10 months of June and September of 1999 you did fondle and/or  
11 kiss the victim's breasts and/or buttocks on several  
12 occasions that being the victim, age fourteen, initials SAS.  
13 This occurring at Rice Avenue Middle School, 1100 Rice  
14 Avenue, Girard, Pennsylvania. Do you understand the legal  
15 and factual basis at Count 5?

16 THE DEFENDANT: I do.

17 MR. HOPKINS: How do you plead?

18 THE DEFENDANT: Guilty.

19 MR. HOPKINS: Count 7 you're charged  
20 again with indecent assault. The factual basis for this  
21 charge is that between the months of January and March of  
22 2000 you did fondle and/or kiss the victim's breast and/or  
23 buttocks on several occasions, occurring at Rice Avenue  
24 Middle School, 1100 Rice Avenue, that being the victim,  
25 initials SAS, the same for the last couple of charges. Do

133a

1 you understand the legal and factual basis at Count 7?

2 THE DEFENDANT: I do.

3 MR. HOPKINS: How do you plead?

4 THE DEFENDANT: Guilty.

5 MR. HOPKINS: Turning to Count 9 you're  
6 charged with corruption of minors and that charge will  
7 repeat at Counts 11 and 13, so I'll read to you the factual  
8 or the legal basis for corruption of minors one time. If  
9 you need me to repeat it, please let me know. A person  
10 commits the crime of corruption of minors if that person  
11 being of age eighteen years and upward by any act corrupts  
12 or tends to corrupt the morals of a minor -- excuse me, the  
13 morals of any child under the age of eighteen years or who  
14 aids, abets, entices or encourages that child in the  
15 commission of any crime or knowingly assists them or  
16 encourages them in violating their parole or other orders of  
17 court. At Count 9 the factual basis is that you being age  
18 fifty two years or older at the time did engage in  
19 involuntary deviate sexual intercourse or indecent assault  
20 on an almost daily basis with the victim, initials SAS, age  
21 thirteen and up, between the months of February and April,  
22 1999 thereby committing corruption of minors, a misdemeanor  
23 of the first degree. Do you understand the legal and  
24 factual basis at Count 9?

25 THE DEFENDANT: Yes, Mr. Hopkins.

134a



1 MR. HOPKINS: How do you plead?

2 THE DEFENDANT: Guilty.

3 MR. HOPKINS: Count 11, again corruption  
4 of minors, the factual basis that you being age fifty two  
5 years or upwards did engage in indecent contact on a daily  
6 basis with the victim, initials SAS, between the months of  
7 June and September of 1999. Do you understand the legal and  
8 factual basis at Count 13?

9 THE DEFENDANT: Yes, sir.

10 MR. HOPKINS: How do you plead?

11 THE DEFENDANT: Guilty.

12 MR. HOPKINS: And finally at Count 13,  
13 corruption of minors, the factual basis of Count 13 is that  
14 you being age fifty two years or older did engage in  
15 involuntary deviate sexual intercourse or indecent assault  
16 on almost a daily basis with a victim, SAS, occurring  
17 between January and March of 2000 at Rice Avenue Middle  
18 School. Do you understand the legal and factual basis at  
19 Count 13?

20 THE DEFENDANT: Yes, Mr. Hopkins.

21 MR. HOPKINS: How do you plead?

22 THE DEFENDANT: Guilty.

23 MR. HOPKINS: Your Honor, pursuant to the  
24 plea agreement I would move to nolle pros the remaining  
25 charges.

135a

1 THE COURT: Motion granted with the  
2 understanding that they could be reinstated if for any  
3 reason the defendant was allowed to withdraw his plea.

4 MR. HOPKINS: Mr. Yarbenet, has anybody  
5 promised you what sentence you're going to receive in this  
6 case?

7 THE DEFENDANT: No.

8 MR. HOPKINS: Has anybody threatened you,  
9 forced you or somehow coerced you into entering this plea?

10 THE DEFENDANT: No, sir.

11 MR. HOPKINS: Are you doing this of your  
12 own free will?

13 THE DEFENDANT: Yes, sir. I want to do  
14 what's right.

15 MR. HOPKINS: What I'm doing at this time  
16 on the back of the information is I've indicated your plea  
17 of guilty, today's date, Counts 1, 3, 5, 7, 9, 11 and 13 and  
18 I've indicated next to that that the rest are nolle prossed  
19 with the costs on defendant. I need you to sign where it's  
20 marked defendant and have your attorney sign.

21

22 (Defendant complies.)

23

24 THE COURT: Mr. Yarbenet, did you  
25 understand everything that went on here today, sir?

136a

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you have any questions?

3 THE DEFENDANT: No.

4 THE COURT: All right. Then based upon  
5 my observations of you and the other matters of record I  
6 find that your plea has been knowingly, voluntarily and  
7 intelligently entered and I'll accept your plea at this  
8 time. I'll order a pre-sentence investigative report as  
9 well as a psychological examination and we will schedule  
10 sentence in this case for April 4th at 1:30 p.m. and this  
11 will be in front of Judge Bozza. This is his case. And  
12 I'll continue his bond until that time with the  
13 understanding that there will be no contact with the victim  
14 or the victim's family.

15 MR. FRIEDMAN: Thank you, Your Honor.

16 THE COURT: You're welcome.

17 THE DEFENDANT: Thank you, Your Honor.

18

19 (Proceedings recessed on Tuesday, March  
20 4, 2003.)

21

22

23

24

25

137a

C-E-R-T-I-F-I-C-A-T-I-O-N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the trial of the above cause, and that this copy is a correct transcript of the same.

\_\_\_\_\_  
Monica Sawka, RPR

Official Court Reporter

The foregoing record of the proceedings upon the trial of the above cause is hereby approved, and directed to be filed.

\_\_\_\_\_  
Honorable Ernest J. DiSantis

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